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AUG 11 2005

ATTEST
FOR THE JUDICIAL PANEL ON
MULTIDISTRICT LITIGATIONFILED
U.S. DISTRICT COURT
EASTERN DISTRICT OF LA

2005 AUG 15 AM 11:56

JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION

AUG 11 2005

FILED
CLERK'S OFFICEDOCKET NO. 1657
CLERK
MDL 1657

BEFORE THE JUDICIAL PANEL ON MULTIDISTRICT LITIGATION

IN RE VIOXX PRODUCTS LIABILITY LITIGATION**BEFORE WM. TERRELL HODGES, CHAIRMAN, JOHN F. KEENAN, D.
LOWELL JENSEN, J. FREDERICK MOTZ,* ROBERT L. MILLER, JR.,
KATHRYN H. VRATIL AND DAVID R. HANSEN, JUDGES OF THE PANEL****TRANSFER ORDER**

Presently before the Panel are motions, pursuant to Rule 7.4, R.P.J.P.M.L., 199 F.R.D. 425, 435-36 (2001), by plaintiffs in the 30 actions listed on Schedule A to vacate the Panel's orders conditionally transferring the actions to the Eastern District of Louisiana for inclusion in the Section 1407 proceedings occurring there in this docket. Merck & Co., Inc., favors inclusion of these actions in MDL-1657 proceedings.

On the basis of the papers filed and hearing session held, the Panel finds that these actions involve common questions of fact with actions in this litigation previously transferred to the Eastern District of Louisiana. Transfer of the actions to that district for inclusion in the coordinated or consolidated pretrial proceedings occurring there will serve the convenience of the parties and witnesses and promote the just and efficient conduct of this litigation. Any pending motions to remand to state court can be presented to and decided by the transferee judge. *See, e.g., In re Ivy*, 901 F.2d 7 (2d Cir. 1990); *In re Prudential Insurance Company of America Sales Practices Litigation*, 170 F.Supp.2d 1346, 1347-48 (J.P.M.L. 2001). The Panel further finds that transfer of these actions is appropriate for the reasons expressed in the original order directing centralization in this docket. In that order, the Panel held that the Eastern District of Louisiana was a proper Section 1407 forum for actions involving claims of liability for allegedly adverse effects arising from the ingestion of Vioxx. *See In re Vioxx Products Liability Litigation*, 360 F.Supp.2d 1352 (J.P.M.L. 2005).

To the Ohio plaintiff who argues that she does not have the resources to litigate this matter in the Eastern District of Louisiana, we emphasize that since Section 1407 transfer is for pretrial proceedings, there is usually no need for the parties and witnesses to travel to the transferee district for depositions or otherwise. *See, e.g., Fed.R.Civ.P. 45(c)(3)(A)*. Furthermore, the judicious use of liaison counsel, lead counsel and steering committees will eliminate the need for most counsel ever to travel to the transferee district. And it is logical to assume that prudent counsel will combine their forces and

* Judge Motz took no part in the decision of this matter.

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EXHIBIT

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apportion their workload in order to streamline the efforts of the parties and witnesses, their counsel and the judiciary. This streamlining combined with the uniform case management approach already instituted by the transferee judge will foreseeably lead to an overall savings in costs. See *In re Asbestos Products Liability Litigation (No. VI)*, 771 F.Supp. 415, 422 (E.D. La., 1991).

IT IS THEREFORE ORDERED that, pursuant to 28 U.S.C. § 1407, these actions are transferred to the Eastern District of Louisiana and, with the consent of that court, assigned to the Honorable Eldon E. Fallon for inclusion in the coordinated or consolidated pretrial proceedings occurring there in this docket.

FOR THE PANEL:



Wm. Terrell Hodges
Chairman

SCHEDULE A

MDL-1657 -- In re Vioxx Products Liability Litigation

EDLA
SEC. L/3

Northern District of California

<i>Vick Kargodorian v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-937	05-3791
<i>Nora Olson, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-1256	05-3792

Southern District of California

<i>Robert V. Purcell v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-443	05-3793
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District of Connecticut

<i>JoAnn Malek v. Eric Rosenberg, M.D., et al.</i> , C.A. No. 3:05-543	05-3794
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Middle District of Florida

<i>Migna Serrano, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 6:05-170	05-3795
<i>Conchita Merced-Torres, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 6:05-449	05-3796
<i>Samuel Diaz, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 6:05-472	05-3797
<i>Wayne Vigil, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 8:05-223	05-3798

Southern District of Illinois

<i>Helen Wood v. Merck & Co., Inc., et al.</i> , C.A. No. 3:05-168	05-3799
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Eastern District of Missouri

<i>Curt Meng, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-194	05-3800
<i>Ronald Colbert, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-195	05-3801
<i>Carver Black, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-297	05-3802
<i>John Hodges, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-302	05-3803
<i>Renee Lockett, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-304	05-3804
<i>LeJuana Young, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-309	05-3805
<i>Kathryn Pueser, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-430	05-3806
<i>Chris Piechoinski, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-431	05-3807
<i>Lorraine Phillip, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-433	05-3808
<i>Barbara O'Bannon, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-434	05-3809
<i>Mary Miles, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-435	05-3810
<i>Jeffrey McDaniel, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-436	05-3811
<i>Louise McCarter, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-437	05-3812

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Eastern District of Missouri [continued]EDLA
SEC. L/3

<i>Norma Hubbard, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-438	05-3813
<i>Delores Holmes, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-439	05-3814
<i>Terry Frame, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-440	05-3815
<i>Jane Cavins, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-441	05-3816
<i>Charlesetta Butler, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 4:05-442	05-3817

Northern District of Ohio

<i>Kimberly Kaiser, et al. v. Merck & Co., Inc.</i> , C.A. No. 1:05-776	05-3818
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Western District of Pennsylvania

<i>Mary Ellen Magnifico v. Merck & Co., Inc.</i> , C.A. No. 2:05-386	05-3819
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Northern District of West Virginia

<i>William David Lough, et al. v. Merck & Co., Inc., et al.</i> , C.A. No. 5:05-34	05-3820
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Southern District of New York

Judge D. Lowell Jensen
United States District Court
Northern District of California

Judge J. Frederick Motz
United States District Court
District of Maryland

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August 11, 2005

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Re: MDL-1657 -- In re Vioxx Products Liability Litigation

(See Attached Schedule A of Order)

Dear Ms. Whyte:

I am enclosing a certified copy and one additional copy of a transfer order filed today by the Panel in the above-captioned matter. The order is directed to you for filing.

The Panel's governing statute, 28 U.S.C. §1407, requires that the transferee clerk "...transmit a certified copy of the Panel's order to transfer to the clerk of the district court from which the action is being transferred."

The Panel has ordered that its Rule 1.6(a), pertaining to transfer of files, be suspended for purposes of this litigation. Accordingly, the transferee district clerk shall request, and the transferor district clerk shall forward, only those files deemed necessary by the transferee district court.

A list of involved counsel is attached.

Very truly,

Michael J. Beck
Clerk of the Panel

By 
Deputy Clerk

Enclosures/Attachment

cc: Transferee Judge: Judge Eldon E. Fallon
Transferor Judges: (See Attached List of Judges)
Transferor Clerks: (See Attached List of Clerks)

JPML Form 29A